

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

VARTA MICROBATTERY GMBH,  
Plaintiff,

v.

GUANGDONG MIC-POWER NEW  
ENERGY CO., LTD.,  
Defendant.

Civil Action No. \_\_\_\_\_

**JURY TRIAL DEMANDED**

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff VARTA Microbattery GmbH (“VARTA”) files this Complaint for Patent Infringement of United States Patent Nos. 9,153,835; 9,496,581; 9,799,913; 9,799,858; and 10,804,506 (collectively “the Patents-in-Suit”) against Defendant Guangdong Mic-Power New Energy Co., Ltd. (“Mic-Power” or “Defendant”), and alleges as follows:

**PARTIES**

1. VARTA is a German limited liability company headquartered at VARTA-Platz 1, 73479 Ellwangen, Baden-Württemberg, Germany.
2. On information and belief, Guangdong Mic-Power New Energy Co., Ltd. is a corporation organized under the laws of China with a place of business located at No. 4 Xingju West Road, Dongxing District, Dongjiang Hi-Tech Industrial Park, Huizhou, China 516055. On information and belief, Mic-Power maintains a U.S. sales office located at 8 Enon Road, Wenham, Massachusetts 01984.

## **JURISDICTION AND VENUE**

3. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. *et seq.* This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. This Court has personal jurisdiction over Mic-Power in this action because Mic-Power has committed and continues to commit infringing acts within the Eastern District of Texas and has established minimum contacts with this District such that exercise of jurisdiction would not offend traditional notions of fair play and substantial justice.

5. Mic-Power sells and/or offers for sale in the State of Texas and/or imports into the State of Texas the infringing products, including by placing such products into the stream of commerce through original equipment manufacturing (OEM) customers having established distribution channels including a network of authorized resellers operating retail facilities and internet sites with the knowledge and understanding that such products will be sold throughout the State of Texas including in this District.

6. Mic-Power has purposefully directed activities toward this District and availed itself of the privilege of doing business in this District by operating its website, [www.mic-power.cn.com](http://www.mic-power.cn.com), through which the infringing products are offered for sale and by deriving substantial revenues from the importing and selling of infringing products here, including through its OEM customers and their resellers.

7. This Court has jurisdiction over Mic-Power due to its continuous and systematic contacts with the state of Texas and this District, including by placing the infringing products in the stream of commerce with the knowledge, intention, and expectation they will be sold in, offered for sale in, and/or imported into the Eastern District of Texas.

8.       Venue is proper in the Eastern District of Texas as to Mic-Power pursuant to 28 U.S.C. § 1391(c)(3) because Mic-Power is a foreign alien that may be sued in any judicial district.

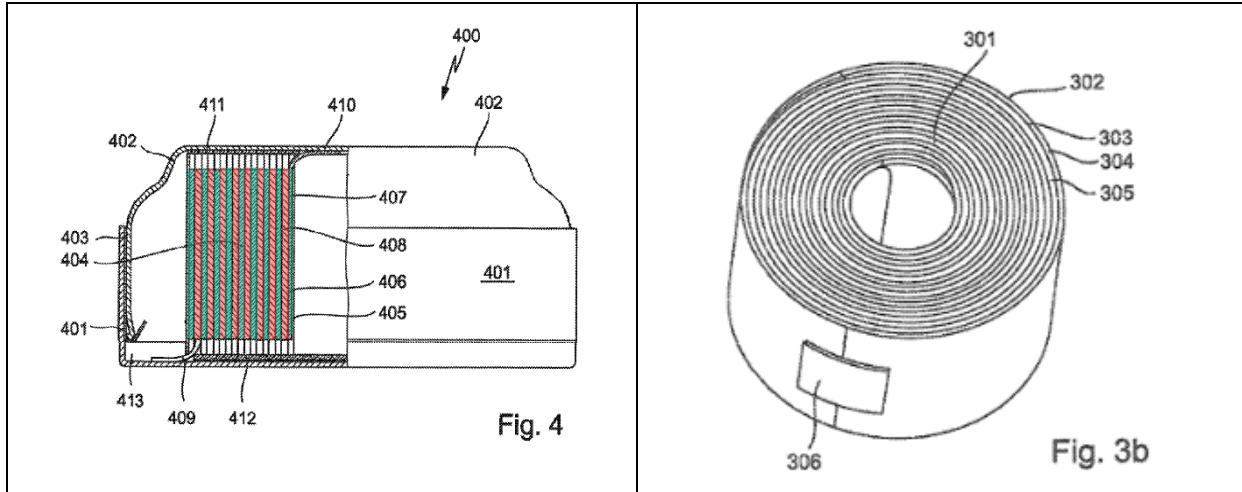
## **BACKGROUND**

9.       VARTA is a leading manufacturer of microbatteries, which include those referred to as “button” cells and “coin” cells due to their small form factor and low height. Applications for VARTA microbatteries include, for example, watches, hearing aids, and wearable cordless devices such as wireless earphones.

10.      In the mid-to-late 2000’s, VARTA undertook efforts to design and develop a novel and proprietary microbattery technology having robust mechanical strength characteristics and enhanced power density and space utilization.

11.      VARTA’s novel and proprietary design includes an electrode-separator assembly located between a housing cup and a housing top that includes at least one positive electrode and at least one negative electrode separated by a separator. The electrodes and the separator may be formed from flat layers and form the electrode-separator assembly. The assembly is wound into a spiral winding and located in the housing so that the electrodes are disposed at essentially right angles to the flat bottom and top areas of the housing.

12.      Figures 3b and 4 of United States Patent No. 9,153,835 illustrate an example of an embodiment of the invention of the Patents-in-Suit. The electrodes 407 of one polarity (highlighted in green) and the electrodes 408 of the other polarity (highlighted in red) are wound in a spiral configuration (shown generally in FIG. 3b). The electrodes 407, 408 may be separated from each other by separator layers 405, 406 of non-electrically conductive material.



13. The lower housing cup 401 and the upper housing top 402 are fitted together to form a housing about the electrode-separator assembly arranged in a spiral winding 404.

14. Electrical contact between the electrode-separator assembly and the flat top and/or bottom areas of the housing may occur through output conductors 410, 409 comprising a piece of foil resting between the spiral winding and the respective portion of the housing.

15. VARTA sells and offers for sale its patented microbatteries in the United States and worldwide *inter alia* under the trademark CoinPower®.

#### **THE PATENTS-IN-SUIT**

16. VARTA spent a great deal of time, effort, and expense in the research and development that lead to the CoinPower microbatteries. Because of their outstanding performance, the CoinPower microbatteries have been highly successful and well accepted by the market across the world. In recognition of the break-through nature of its invention, VARTA was granted an international patent portfolio covering various aspects of the CoinPower microbatteries, including a number of patents in the United States, with additional patent applications still pending in the United States Patent and Trademark Office.

17. On October 6, 2015, the United States Patent and Trademark Office duly and legally issued United States Patent No. 9,153,835 (“the ’835 Patent”), entitled “Button Cells and Method for Producing Same” to the listed inventors Eduard Pytlik, Jürgen Lindner, Ulrich Barenthin, and Winfried Gaugler, all of Ellwangen, Germany. VARTA is the assignee and owner of all right, title, and interest in the ’835 Patent, including the right to sue for and recover all past, present, and future damages and to seek injunctive relief for infringement of the ’835 Patent. A true and correct copy of the ’835 Patent is attached hereto as Exhibit A.

18. On November 15, 2016, the United States Patent and Trademark Office duly and legally issued United States Patent No. 9,496,581 (“the ’581 Patent”), entitled “Button Cells and Method of Producing Same” to the listed inventors Eduard Pytlik, Jürgen Lindner, Ulrich Barenthin, and Winfried Gaugler, all of Ellwangen, Germany. VARTA is the assignee and owner of all right, title, and interest in the ’581 Patent, including the right to sue for and recover all past, present, and future damages and to seek injunctive relief for infringement of the ’581 Patent. A true and correct copy of the ’581 Patent is attached hereto as Exhibit B.

19. On October 24, 2017, the United States Patent and Trademark Office duly and legally issued United States Patent No. 9,799,913 (“the ’913 Patent”), entitled “Button Cells and Method of Producing Same” to the listed inventors Eduard Pytlik, Jürgen Lindner, Ulrich Barenthin, and Winfried Gaugler, all of Ellwangen, Germany. VARTA is the assignee and owner of all right, title, and interest in the ’913 Patent, including the right to sue for and recover all past, present, and future damages and to seek injunctive relief for infringement of the ’913 Patent. A true and correct copy of the ’913 Patent is attached hereto as Exhibit C.

20. On October 24, 2017, the United States Patent and Trademark Office duly and legally issued United States Patent No. 9,799,858 (“the ’858 Patent”), entitled “Button Cell

having Winding Electrode and Method for the Production Thereof” to the listed inventor Winfried Gaugler of Ellwangen, Germany. VARTA is the assignee and owner of all right, title, and interest in the ’858 Patent, including the right to sue for and recover all past, present, and future damages and to seek injunctive relief for infringement of the ’858 Patent. A true and correct copy of the ’858 Patent is attached hereto as Exhibit D.

21. On October 13, 2020, the United States Patent and Trademark Office duly and legally issued United States Patent No. 10,804,506 (“the ’506 Patent”), entitled “Button Cell Having a Winding Electrode and Method for the Production Thereof” to the listed inventor Winfried Gaugler of Ellwangen, Germany. The ’506 Patent issued from a divisional application of the application leading to the ’858 Patent. On December 1, 2020, the United States Patent and Trademark Office duly and legally issued a Certificate of Correction for the ’506 Patent. VARTA is the assignee and owner of all right, title, and interest in the ’506 Patent, including the right to sue for and recover all past, present, and future damages and to seek injunctive relief for infringement of the ’506 Patent. A true and correct copy of the ’506 Patent and its Certificate of Correction are attached hereto as Exhibit E.

### **THE INFRINGING PRODUCTS**

22. On information and belief, Mic-Power has been and continues to be engaging in selling and/or offering for sale in the United States and/or importing into the United States infringing batteries, such as, coin cells, including at least those bearing at least one of the following part numbers: M1254 and M1454 (“the Mic-Power batteries”).

23. The Mic-Power batteries are offered for sale in the United States through the [www.mic-power.cn.com](http://www.mic-power.cn.com) website, which includes a webpage describing Mic-Power coin cell product offerings and a webpage providing US sales contact information.

 Mic-power

Home Company Products Technology Quality Contact



Coin Cell

Mic-power's lithium polymer proprietary and patented coin cells are available in standard sizes such as 1054, 1254, 1454, and 1654. Should your cutting-edge solution require a custom-sized coin cell, we can design and manufacture beyond the industry standard sizes.

<http://www.mic-power.cn.com/products/>

\* \* \*

 Mic-power

Home Company Products Technology Quality Contact

C O N T A C T U S

We are **excited** to work with you

\* \* \*

US

Email: [sales@mic-power.cn](mailto:sales@mic-power.cn)  
Phone: +1 978 746 1692  
Address: 8 Enon Road  
Wenham, MA 01984

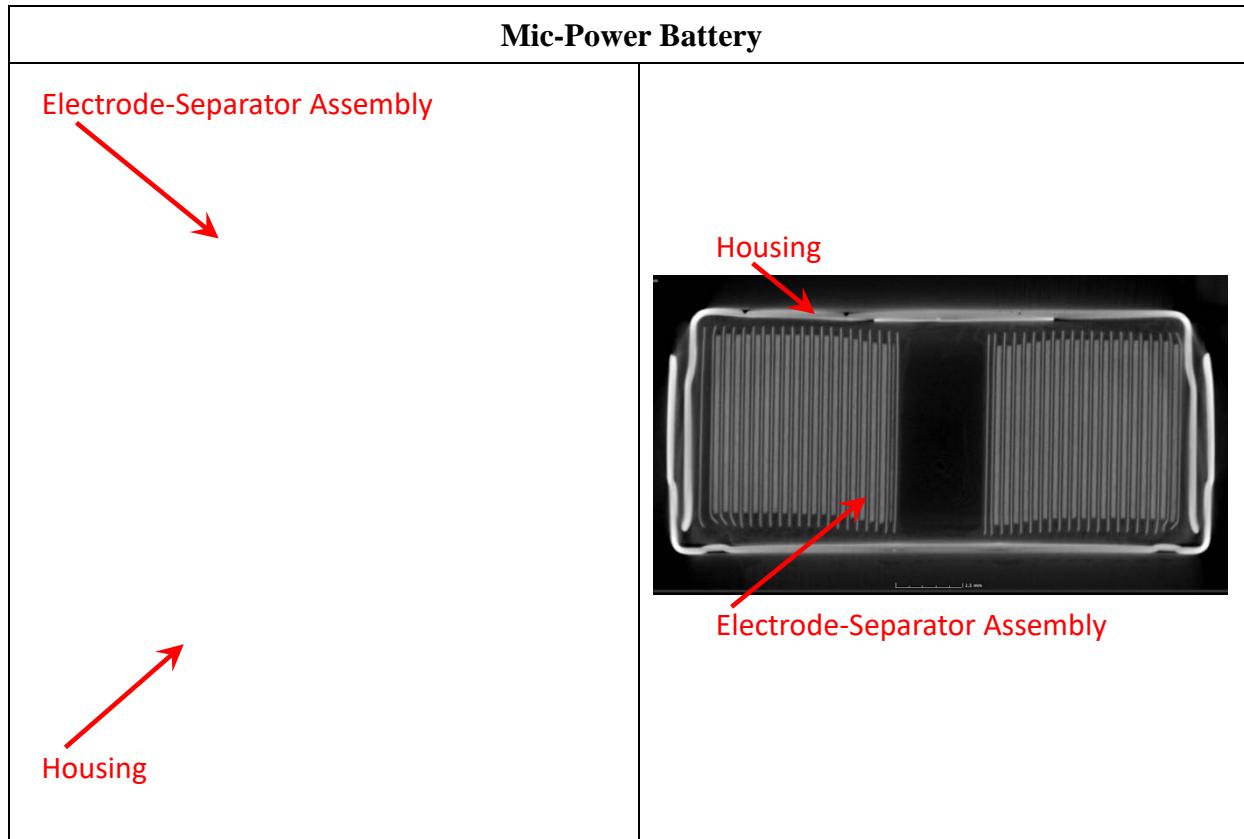


<http://www.mic-power.cn.com/contact/>

24. The Mic-Power batteries are button cells that include a housing cup with a flat bottom area and a housing top with a flat top area as shown below.

Mic-Power Battery





25. The Mic-Power batteries include an electrode-separator assembly within the housing having a positive electrode and a negative electrode in the form of flat layers connected to and separated by a flat separator.

26. The electrode-separator assembly of the Mic-Power batteries are in the form of a spiral winding with end faces facing in the axial direction relative to the flat bottom area and the flat top area of the housing so that the electrodes are aligned essentially at right angles to the flat bottom area and the flat top area when the housing cup and housing top are closed.

27. On information and belief, Mic-Power had pre-suit knowledge of the Patents-in-Suit and that the Mic-Power batteries infringe one or more claims of each of the Patents-in-Suit, but continued its infringing activities. Prior to the filing of this Complaint, Mic-Power had knowledge that VARTA had sued at least one of Mic-Power's customers for infringing the '835 Patent, the '581 Patent, the '858 Patent, and the '913 Patent based upon such customer's

incorporating the Mic-Power batteries into its products. Mic-Power has been named as a real party-in-interest in petitions for *inter partes* reviews of the '835 Patent, the '581 Patent, the '858 Patent, and the '913 Patent which were filed with the U.S. Patent & Trademark Office on July 7, 2020. On information and belief, Mic-Power knew of, or was at least willfully blind to, the '506 Patent since it issued on October 13, 2020, including due to Mic-Power's knowledge of the other Patents-in-Suit prior to the issuance of the '506 Patent, such as, the '858 Patent which is the parent of the '506 Patent.

28. On information and belief, Mic-Power has been and continues to be inducing direct and indirect customers to directly infringe the Patents-in-Suit. On information and belief, Mic-Power knowingly induced OEM customers to include infringing Mic-Power batteries in products for the U.S. market. For example, Mic-Power has been and continues to be inducing direct and indirect customers, including OEM customers and their retailers, to engage in selling and offering for sale in the United States and/or importing into the United States infringing products that incorporate the Mic-Power infringing batteries therein, such as, for example, wireless earphones.

29. One or more direct and indirect customers of Mic-Power have directly infringed, and continue to infringe, at least one claim of each of the Patents-in-Suit by using, offering to sell, and/or selling in and/or importing into the United States infringing products that incorporate the Mic-Power batteries. Such direct and indirect customers of Mic-Power include: Audio Partnership LLC and/or Audio Partnership PLC d/b/a "Cambridge Audio"; GN Audio A/S and/or GN Audio USA Inc. d/b/a "Jabra"; PEAG, LLC d/b/a "JLab Audio"; and retailers of the electronic devices manufactured and sold by these companies. On information and belief, Mic-Power knows that the activities by its direct and indirect customers directly infringe at least one

claim of each of the Patents-in-Suit, or is willfully blind to the fact that this activity by its customers directly infringes at least one claim of each of the Patents-in-Suit.

30. On information and belief, Mic-Power has knowingly and intentionally induced and encouraged, and continues to induce and encourage, the infringing conduct of their direct and indirect customers, including their distributors and resellers, knowing that its infringing products have been and continue to be offered for sale and sold in the United States and imported into the United States. On information and belief, Mic-Power had notice and knowledge of the Patents-in-Suit while it induced other's infringing conduct. Mic-Power induced and continues to induce infringement of the Patents-in-Suit under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe the Patents-in-Suit, including, but not limited to, its OEM customers and their distributors and resellers whose activities constitute direct infringement of at least one claim of each of the Patents-in-Suit. On information and belief, these actions include, but are not limited to: advertising the Mic-Power batteries; drafting, distributing, or making available datasheets, instructions, or manuals for the Mic-Power batteries; providing technical support or other services for the Mic-Power batteries to Mic-Power's customers and prospective customers; and/or affirmatively providing the Mic-Power batteries for incorporation into electronic devices imported into, sold in, and used in the United States.

31. Mic-Power, without license or authorization, has been and continues to be engaging in selling and/or offering for sale in the United States and/or importing into the United States the Mic-Power batteries.

32. Mic-Power, without license or authorization, has been and continues to be engaging in inducing third parties to include the Mic-Power batteries in electronic devices sold and offered for sale in the United States and/or imported into the United States.

**COUNT I: INFRINGEMENT OF THE '835 PATENT**

33. VARTA incorporates and re-alleges the allegations in the preceding paragraphs of its Complaint as if fully set forth herein.

34. On information and belief, Mic-Power has infringed and continues to infringe at least claim 1 of the '835 Patent under 35 U.S.C. § 271(a) by selling in, offering to sell in, and/or importing into the United States the infringing Mic-Power batteries.

35. On information and belief, Mic-Power has knowingly and intentionally induced, and continues to induce, infringement under 35 U.S.C. § 271(b) of at least claim 1 of the '835 Patent by encouraging and inducing direct infringement thereof by Mic-Power's customers and their resellers, retailers, distributors, and end users by intentionally directing them and encouraging them to use, sell, and/or offer to sell within the United States and/or to import into the United States one or more devices that incorporate the infringing Mic-Power batteries.

36. More particularly, the Mic-Power batteries have a housing cup and a housing top separated from one another by an electrically insulating seal to form a housing with a flat bottom area and a flat top area parallel to the flat bottom area.

37. The Mic-Power batteries have an electrode-separator assembly within the housing with a positive and a negative electrode in the form of flat layers that are connected to one another by a flat separator.

38. The Mic-Power batteries have an electrode-separator assembly where the electrode layers are aligned essentially at right angles to the flat bottom area and the flat top area

of the housing, and the electrode-separator assembly is in the form of a spiral winding with end faces facing in the axial direction relative to the flat bottom area and the flat top area.

39. The Mic-Power batteries have a housing in which the housing cup and the housing top are closed without being beaded over.

40. The Mic-Power batteries have an insulator arranged between the end faces of the spiral winding and the housing cup and the housing top.

41. On information and belief, Mic-Power has infringed and continues to infringe at least claim 10 of the '835 Patent under 35 U.S.C. § 271(g) by importing into and/or offering to sell and/or selling in the United States the Mic-Power batteries which are made by a process that involves each and every step set forth in at least claim 10.

42. The Mic-Power batteries have a metallic housing cup and a metallic housing top, and, on information and belief, the Mic-Power batteries are produced by inserting an electrode-separator assembly with electrodes in the form of a flat layer into the housing such that the electrode layers are aligned essentially at right angles to the flat bottom and top areas.

43. Mic-Power is not and has never been licensed or authorized to commit the acts described above with respect to any claim of the '835 Patent.

44. As a result of Mic-Power's infringement of the '835 Patent, VARTA has suffered and continues to suffer damages, in an amount to be determined, of at least a reasonable royalty and/or lost profits due to lost sales, profits, and potential sales that VARTA would have made but for Mic-Power's infringing acts.

45. VARTA has been, and will continue to be, damaged by Mic-Power's infringement of the '835 Patent and will suffer irreparable injury unless the infringement is enjoined by this Court pursuant to 35 U.S.C. § 283 and/or the equitable powers of this Court.

46. Upon information and belief, Mic-Power has known of the '835 Patent and its infringement of the '835 Patent, since, at least, July 7, 2020. Despite such knowledge, Mic-Power has continued its infringing activities. Upon information and belief, Mic-Power's infringement of the '835 Patent is willful entitling VARTA to enhanced damages pursuant to 35 U.S.C. § 284. This action, therefore, is "exceptional" within the meaning of 35 U.S.C. § 285 entitling VARTA to its attorneys' fees and expenses.

#### **COUNT II: INFRINGEMENT OF THE '581 PATENT**

47. VARTA incorporates and re-alleges the allegations in the preceding paragraphs of its Complaint as if fully set forth herein.

48. On information and belief, Mic-Power has infringed and continues to infringe at least claim 1 of the '581 Patent under 35 U.S.C. § 271(a) by selling in, offering to sell in, and/or importing into the United States the infringing Mic-Power batteries.

49. On information and belief, Mic-Power has knowingly and intentionally induced, and continues to induce, infringement under 35 U.S.C. § 271(b) of at least claim 1 of the '581 Patent by encouraging and inducing direct infringement thereof by Mic-Power's customers and their resellers, retailers, distributors, and end users by intentionally directing them and encouraging them to use, sell, and/or offer to sell within the United States and/or to import into the United States one or more devices that incorporate the infringing Mic-Power batteries.

50. More particularly, the Mic-Power batteries have a housing cup and a housing top separated from one another by an electrically insulating seal to form a housing with a flat bottom area and a flat top area parallel to the flat bottom area.

51. The Mic-Power batteries have an electrode-separator assembly within the housing with a positive and a negative electrode in the form of flat layers that are connected to one another by a flat separator.

52. The Mic-Power batteries have an electrode-separator assembly where the electrode layers are aligned essentially at right angles to the flat bottom area and the flat top area of the housing, and the electrode-separator assembly is in the form of a spiral winding with end faces facing in the axial direction relative to the flat bottom area and the flat top area.

53. The Mic-Power batteries have an electrode-separator assembly where one of the electrodes connects to the flat bottom area or the flat top area via an output conductor comprising a foil resting flat between an end face of the spiral winding and the flat top or the flat bottom area to which it is connected.

54. On information and belief, Mic-Power has infringed and continues to infringe at least claim 10 of the '581 Patent under 35 U.S.C. § 271(g) by importing into and/or offering to sell and/or selling in the United States infringing products with the Mic-Power batteries which are made by a process that involves each and every step set forth in at least claim 10.

55. The Mic-Power batteries have a metallic housing cup and a metallic housing top, and, on information and belief, the Mic-Power batteries are produced by inserting an electrode-separator assembly with flat layer electrodes into the housing such that the flat layer electrodes are aligned essentially at right angles to the flat bottom and top areas.

56. On information and belief, the Mic-Power batteries are produced with the electrode-separator inserted into the housing such that the electrodes are aligned at essentially right angles to the flat bottom area and the flat top area of the housing.

57. Mic-Power is not and has never been licensed or authorized to commit the acts described above with respect to any claim of the '581 Patent.

58. As a result of Mic-Power's infringement of the '581 Patent, VARTA has suffered and continues to suffer damages, in an amount to be determined, of at least a reasonable royalty and/or lost profits due to lost sales, profits, and potential sales that VARTA would have made but for Mic-Power's infringing acts.

59. VARTA has been, and will continue to be, damaged by Mic-Power's infringement of the '581 Patent and will suffer irreparable injury unless the infringement is enjoined by this Court pursuant to 35 U.S.C. § 283 and/or the equitable powers of this Court.

60. Upon information and belief, Mic-Power has known of the '581 Patent and its infringement of the '581 Patent, since, at least, July 7, 2020. Despite such knowledge, Mic-Power has continued its infringing activities. Upon information and belief, Mic-Power's infringement of the '581 Patent is willful entitling VARTA to enhanced damages pursuant to 35 U.S.C. § 284. This action, therefore, is "exceptional" within the meaning of 35 U.S.C. § 285 entitling VARTA to its attorneys' fees and expenses.

### **COUNT III: INFRINGEMENT OF THE '913 PATENT**

61. VARTA incorporates and re-alleges the allegations in the preceding paragraphs of its Complaint as if fully set forth herein.

62. On information and belief, Mic-Power has infringed and continues to infringe at least claims 1, 4, and 6 of the '913 Patent under 35 U.S.C. § 271(a) by selling in, offering to sell in, and/or importing into the United States the infringing Mic-Power batteries.

63. On information and belief, Mic-Power has knowingly and intentionally induced, and continues to induce, infringement under 35 U.S.C. § 271(b) of at least claims 1, 4, and 6 of

the '913 Patent by encouraging and inducing direct infringement thereof by Mic-Power's customers and their resellers, retailers, distributors, and end users by intentionally directing them and encouraging them to use, sell, and/or offer to sell within the United States and/or to import into the United States one or more devices that incorporate the infringing Mic-Power batteries.

64. More particularly, the Mic-Power batteries have a housing cup and a housing top separated from one another by an electrically insulating seal to form a housing with a flat bottom area and a flat top area parallel to the flat bottom area.

65. The Mic-Power batteries have an electrode-separator assembly within the housing with a positive and a negative electrode in the form of flat layers that are connected to one another by a flat separator.

66. The Mic-Power batteries have an electrode-separator assembly where the electrode layers are aligned essentially at right angles to the flat bottom area and the flat top area of the housing, and the electrode-separator assembly is in the form of a spiral winding with end faces facing in the axial direction relative to the flat bottom area and the flat top area.

67. The Mic-Power batteries have an electrode-separator assembly where one of the electrodes connects to the flat bottom area or the flat top area via an output conductor comprising a foil resting flat between an end face of the spiral winding and the flat top or the flat bottom area to which it is connected.

68. The Mic-Power batteries have an insulator preventing direct mechanical and electrical contact between the end faces of the winding and the flat bottom area and the flat top area of the housing.

69. The Mic-Power batteries have at least one flat layer composed of plastic preventing direct mechanical and electrical contact between the end faces of the winding and the flat bottom area and the flat top area of the housing.

70. Mic-Power is not and has never been licensed or authorized to commit the acts described above with respect to any claim of the '913 Patent.

71. As a result of Mic-Power's infringement of the '913 Patent, VARTA has suffered and continues to suffer damages, in an amount to be determined, of at least a reasonable royalty and/or lost profits due to lost sales, profits, and potential sales that VARTA would have made but for Mic-Power's infringing acts.

72. VARTA has been, and will continue to be, damaged by Mic-Power's infringement of the '913 Patent and will suffer irreparable injury unless the infringement is enjoined by this Court pursuant to 35 U.S.C. § 283 and/or the equitable powers of this Court.

73. Upon information and belief, Mic-Power has known of the '913 Patent and its infringement of the '913 Patent, since, at least, July 7, 2020. Despite such knowledge, Mic-Power has continued its infringing activities. Upon information and belief, Mic-Power's infringement of the '913 Patent is willful entitling VARTA to enhanced damages pursuant to 35 U.S.C. § 284. This action, therefore, is "exceptional" within the meaning of 35 U.S.C. § 285 entitling VARTA to its attorneys' fees and expenses.

#### **COUNT IV: INFRINGEMENT OF THE '858 PATENT**

74. VARTA incorporates and re-alleges the allegations in the preceding paragraphs of its complaint as if fully set forth herein.

75. On information and belief, Mic-Power has infringed and continues to infringe at least claim 1 of the '858 Patent under 35 U.S.C. § 271(a) by selling in, offering to sell in, and/or importing into the United States the infringing Mic-Power batteries.

76. On information and belief, Mic-Power has knowingly and intentionally induced, and continues to induce, infringement under 35 U.S.C. § 271(b) of at least claim 1 of the '858 Patent by encouraging and inducing direct infringement thereof by Mic-Power's customers and their resellers, retailers, distributors, and end users by intentionally directing them and encouraging them to use, sell, and/or offer to sell within the United States and/or to import into the United States one or more devices that incorporate the infringing Mic-Power batteries.

77. More particularly, the Mic-Power batteries include two metal housing halves separated from one another by an electrically insulating seal forming a housing having a plane bottom region and a plane top region parallel to the plane bottom region.

78. The Mic-Power batteries include an electrode-separator assembly having one positive electrode and one negative electrode in the housing in the form of a winding, the lateral ends of which face in a direction of the plane bottom region and the plane top region of the housing such that the layers of the winding are oriented essentially orthogonal to the plane bottom region and the plane top region.

79. The Mic-Power batteries include metal conductors electrically connected to the positive electrode and the negative electrode and, respectively, to one of the housing halves.

80. The Mic-Power batteries include a height-to-diameter ratio of less than one.

81. The Mic-Power batteries include an electrode-separator assembly in which one of the conductors is a metal foil and connects to the respective housing half with a weld bead or weld spot passing through and originating from the outer side of the housing, the metal foil

connects to the respective housing half by bearing flat on one lateral end side of the electrode-separator assembly winding, and the metal foils are shielded from the lateral ends sides of the winding by insulting elements.

82. Mic-Power is not and has never been licensed or authorized to commit the acts described above with respect to any claim of the '858 Patent.

83. As a result of Mic-Power's infringement of the '858 Patent, VARTA has suffered and continues to suffer damages, in an amount to be determined, of at least a reasonable royalty and/or lost profits due to lost sales, profits, and potential sales that VARTA would have made but for Mic-Power's infringing acts.

84. VARTA has been, and will continue to be, damaged by Mic-Power's infringement of the '858 Patent and will suffer irreparable injury unless the infringement is enjoined by this Court pursuant to 35 U.S.C. § 283 and/or the equitable powers of this Court.

85. Upon information and belief, Mic-Power has known of the '858 Patent and its infringement of the '858 Patent, since, at least, July 7, 2020. Despite such knowledge, Mic-Power has continued its infringing activities. Upon information and belief, Mic-Power's infringement of the '858 Patent is willful entitling VARTA to enhanced damages pursuant to 35 U.S.C. § 284. This action, therefore, is "exceptional" within the meaning of 35 U.S.C. § 285 entitling VARTA to its attorneys' fees and expenses.

#### **COUNT V: INFRINGEMENT OF THE '506 PATENT**

86. VARTA incorporates and re-alleges the allegations in the preceding paragraphs of the complaint as if fully set forth herein.

87. On information and belief, Mic-Power has infringed and continues to infringe at least claims 1 and 11 of the '506 Patent under 35 U.S.C. § 271(a) by selling in, offering to sell in, and/or importing into the United States the infringing Mic-Power batteries.

88. On information and belief, Mic-Power has knowingly and intentionally induced, and continues to induce, infringement under 35 U.S.C. § 271(b) of at least claims 1 and 11 of the '506 Patent by encouraging and inducing direct infringement thereof by Mic-Power's customers and their resellers, retailers, distributors, and end users by intentionally directing them and encouraging them to use, sell, and/or offer to sell within the United States and/or to import into the United States one or more devices that incorporate the infringing Mic-Power batteries.

89. More particularly, the Mic-Power batteries include a housing with two metal housing halves separated from one another by an electrically insulating injection-molded seal or film seal in which one of the housing halves includes a planar bottom region and another of the housing halves includes a planar top region substantially parallel to the planar bottom region.

90. The Mic-Power batteries have a housing with a height-to-diameter ratio of less than one.

91. The Mic-Power batteries include an electrode separator assembly having a positive electrode and a negative electrode disposed in the housing and being in the form of a winding, the end sides of which face in the direction of the planar bottom region and the planar top region such that the layers of the electrode separator assembly are oriented essentially orthogonally to the planar bottom region and the planar top region of the housing.

92. The Mic-Power batteries include an electrode separator assembly with a winding that has a substantially centrally located axis and open cavity extending along the axis interiorly of the winding. The open cavity has axially spaced opposite ends, and the planar top region and

the planar bottom region each have a sub-region disposed both radially and axially adjacent one of the ends of the open cavity.

93. The Mic-Power batteries include an electrode separator assembly with positive and negative electrodes each including a current collector in the form of a metal foil or a metal mesh coated on both sides with active electrode material, and each of the current collectors includes an uncoated section.

94. The Mic-Power batteries have two metal foils functioning as conductors and electrically connecting the positive and negative electrodes to the housing halves, wherein the metal foils bear flat on an inner surface of the planar bottom region or the planar top region of the housing. One of the metal foils is attached by a weld to one of the uncoated sections and one of the planar bottom and top regions, and another one of the metal foils is attached by a weld to another one of the uncoated sections and to another one of the planar bottom and top regions.

95. The Mic-Power batteries have at least one insulator disposed to prevent direct electrical contact between one of the metal foil conductors and an adjacent one of the end sides of the electrode separator assembly.

96. The Mic-Power batteries are configured as a secondary lithium ion cell.

97. The Mic-Power batteries include an electrode separator assembly with an open cavity that includes no winding core.

98. The Mic-Power batteries include an electrode separator assembly with an open cavity that is defined at an outer lateral extent thereof by an inner region of the winding, and that is laterally unobstructed by a winding core.

99. The Mic-Power batteries include metal foils having a thickness of 5  $\mu\text{m}$  to 100  $\mu\text{m}$ .

100. Mic-Power is not and never has been licensed or authorized to commit the acts described above with respect to any claim of the '506 Patent.

101. As a result of Mic-Power's infringement of the '506 Patent, VARTA has suffered and continues to suffer damages, in an amount to be determined, of at least a reasonable royalty and/or lost profits due to lost sales, profits, and potential sales that VARTA would have made but for Mic-Power's infringement.

102. VARTA has been, and will continue to be, damaged by Mic-Power's infringement of the '506 Patent and will suffer irreparable injury unless the infringement is enjoined by this Court pursuant to 35 U.S.C. § 283 and/or the equitable powers of this Court.

103. Upon information and belief, Mic-Power has known of the '506 Patent and its infringement of the '506 Patent since October 13, 2020 when the '506 Patent issued. Despite such knowledge, Mic-Power has continued its infringing activities. Upon information and belief, Mic-Power's infringement of the '506 patent is willful entitling VARTA to enhanced damages pursuant to 35 U.S.C. § 284. This action, therefore, is "exceptional" within the meaning of 35 U.S.C. § 285 entitling VARTA to its attorneys' fees and expenses.

#### **PRAYER FOR RELIEF**

WHEREFORE, VARTA prays for judgment on the Complaint in its favor and against Mic-Power as follows:

A. A declaration that Mic-Power is liable for infringement of the '835 Patent, the '581 Patent, the '913 Patent, the '858 Patent, and the '506 Patent;

B. Entry of a preliminary and/or permanent injunction against Mic-Power pursuant to 35 U.S.C. § 283 and/or the equitable powers of the Court to prevent further infringement of the '835 Patent, the '581 Patent, the '913 Patent, the '858 Patent, and the '506 Patent;

C. An award to VARTA and against Mic-Power of compensatory damages for infringement, but in no event less than a reasonable royalty for the use made of the invention by Mic-Power, of the '835 Patent, the '581 Patent, the '913 Patent, the '858 Patent, and the '506 Patent, together with all pre-judgment and post-judgment interest;

D. A declaration that Mic-Power's infringement is willful and an award of enhanced damages, in the form of treble damages, pursuant to 35 U.S.C. § 284;

E. An award to VARTA of costs pursuant to 28 U.S.C. § 1920, 35 U.S.C. § 284, Fed. R. Civ. P. 54, and/or the Court's discretion;

F. A declaration that this is an exceptional case within the meaning of 35 U.S.C. § 285 and an award to VARTA of its reasonable attorneys' fees; and

G. An award of any and all other relief as this Court may deem just and proper under the circumstances.

#### **JURY DEMAND**

Pursuant to Rule 38(B) of the Federal Rules of Civil Procedure, VARTA requests a trial by jury on all triable issues.

Dated: February 2, 2021

Respectfully submitted,

/s/ Andrew W. Stinson

H. Michael Hartmann (*pro hac vice forthcoming*)  
IL State Bar No. 1146130  
Wesley O. Mueller (*pro hac vice forthcoming*)  
IL State Bar No. 6199650  
Robert T. Wittmann (*pro hac vice forthcoming*)  
IL State Bar No. 6273264  
J. Karl Gross (*pro hac vice forthcoming*)  
IL State Bar No. 6275041  
LEYDIG, VOIT & MAYER, LTD.  
Two Prudential Plaza  
180 North Stetson Avenue, Suite 4900  
Chicago, IL 60601  
312-616-5600

312-616-5700 fax  
[mhartmann@leydig.com](mailto:mhartmann@leydig.com)  
[wmueller@leydig.com](mailto:wmueller@leydig.com)  
[bwittmann@leydig.com](mailto:bwittmann@leydig.com)  
[kgross@leydig.com](mailto:kgross@leydig.com)

Andrew W. Stinson  
State Bar No. 24028013  
RAMEY & FLOCK, PC  
100 E. Ferguson Street, Suite 404  
Tyler, TX 75702  
903-597-3301  
903-597-2413 fax  
[andys@rameyflock.com](mailto:andys@rameyflock.com)

*Attorneys for VARTA Microbattery GmbH*